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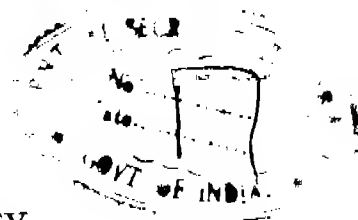
असाधारण
EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 28th May, 1976:—

I

BILL No. XXVIII OF 1976

A Bill to provide for certain matters relating to the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

Short title and commencement.

(2) Sections 5 and 7 shall come into force on such date or on such different dates as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions of this Act shall come into force at once.

2. In this Act, "limit", in relation to the territorial waters, the continental shelf, the exclusive economic zone or any other maritime zone of India, means the limit of such waters, shelf or zone with reference to the mainland of India as well as the individual or composite group or groups of islands constituting part of the territory of India.

Definition.

3. (1) The sovereignty of India extends and has always extended to the territorial waters of India (hereinafter referred to as the territorial waters) and to the seabed and subsoil underlying, and the air space over, such waters.

Sovereignty over, and limits of territorial waters.

(2) The limit of the territorial waters is the line every point of which is at a distance of twelve nautical miles from the nearest point of the appropriate baseline.

(3) Notwithstanding anything contained in sub-section (2), the Central Government may, whenever it considers necessary so to do having regard to International Law and State practice, alter, by notification in the Official Gazette, the limit of the territorial waters.

(4) No notification shall be issued under sub-section (3) unless resolutions approving the issue of such notification are passed by both Houses of Parliament.

Use of
terri-
torial
waters
by
foreign
ships.

4. (1) Without prejudice to the provisions of any other law for the time being in force, all foreign ships (other than warships including submarines and other underwater vehicles) shall enjoy the right of innocent passage through the territorial waters.

Explanation.—For the purposes of this section, passage is innocent so long as it is not prejudicial to the peace, good order or security of India.

(2) Foreign warships including submarines and other underwater vehicles may enter or pass through the territorial waters after giving prior notice to the Central Government:

Provided that submarines and other underwater vehicles shall navigate on the surface and show their flag while passing through such waters.

(3) The Central Government may, if satisfied that it is necessary so to do in the interests of the peace, good order or security of India or any part thereof, suspend, by notification in the Official Gazette, whether absolutely or subject to such exceptions and qualifications as may be specified in the notification, the entry of all or any class of foreign ships into such area of the territorial waters as may be specified in the notification.

Contigu-
ous zone
of India.

5. (1) The contiguous zone of India (hereinafter referred to as the contiguous zone) is an area beyond and adjacent to the territorial waters and the limit of the contiguous zone is the line every point of which is at a distance of twenty-four nautical miles from the nearest point of the baseline referred to in sub-section (2) of section 3.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, whenever it considers necessary so to do having regard to International Law and State practice, alter, by notification in the Official Gazette, the limit of the contiguous zone.

(3) No notification shall be issued under sub-section (2) unless resolutions approving the issue of such notification are passed by both Houses of Parliament.

(4) The Central Government may exercise such powers and take such measures in or in relation to the contiguous zone as it may consider necessary with respect to,—

(a) the security of India, and

(b) immigration, sanitation, customs and other fiscal matters.

(5) The Central Government may, by notification in the Official Gazette,—

(a) extend with such restrictions and modifications as it thinks fit, any enactment, relating to any matter referred to in clause (a) or clause (b) of sub-section (4), for the time being in force in India or any part thereof, to the contiguous zone, and

(b) make such provisions as it may consider necessary in such notification for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the contiguous zone is a part of the territory of India.

6. (1) The continental shelf of India (hereinafter referred to as the continental shelf) comprises the seabed and subsoil of the submarine areas that extend beyond the limit of its territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baseline referred to in sub-section (2) of section 3 where the outer edge of the continental margin does not extend up to that distance.

Conti-
nental
shelf.

(2) India has, and always had, full and exclusive sovereign rights in respect of its continental shelf.

(3) Without prejudice to the generality of the provisions of sub-section (2), the Union has in the continental shelf,—

(a) sovereign rights for the purposes of exploration, exploitation, conservation and management of all resources;

(b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the continental shelf or for the convenience of shipping or for any other purpose;

(c) exclusive jurisdiction to authorise, regulate and control scientific research; and

(d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution.

(4) No person (including a foreign Government) shall, except under, and in accordance with, the terms of a licence or a letter of authority granted by the Central Government, explore the continental shelf or exploit its resources or carry out any search or excavation or conduct any research within the continental shelf or drill therein or construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device therein for any purpose whatsoever.

(5) The Central Government may, by notification in the Official Gazette,—

(a) declare any area of the continental shelf and its superjacent waters to be a designated area; and

(b) make such provisions as it may deem necessary with respect to,—

(i) the exploration, exploitation and protection of the resources of the continental shelf within such designated area; or

(ii) the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in such designated area; or

(iii) the protection of marine environment of such designated area; or

(iv) customs and other fiscal matters in relation to such designated area.

Explanation.—A notification issued under this sub-section may provide for the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sealanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of India.

(6) The Central Government may, by notification in the Official Gazette,—

(a) extend with such restrictions and modifications as it thinks fit, any enactment for the time being in force in India or any part thereof to the continental shelf or any part [including any designated area under sub-section (5)] thereof; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the continental shelf or the part [including, as the case may be, any designated area under sub-section (5)] thereof to which it has been extended is a part of the territory of India.

(7) Without prejudice to the provisions of sub-section (2) and subject to any measures that may be necessary for protecting the interests of India, the Central Government may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf by foreign States:

Provided that the consent of the Central Government shall be necessary for the delineation of the course for the laying of such cables or pipelines.

Exclusive
economic
zone.

7. (1) The exclusive economic zone of India (hereinafter referred to as the exclusive economic zone) is an area beyond and adjacent to the territorial waters, and the limit of such zone is two hundred nautical miles from the baseline referred to in sub-section (2) of section 3.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, whenever it considers necessary so to do having

regard to International Law and State practice, alter, by notification in the Official Gazette, the limit of the exclusive economic zone.

(3) No notification shall be issued under sub-section (2) unless resolutions approving the issue of such notification are passed by both Houses of Parliament.

(4) In the exclusive economic zone, the Union has,—

(a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living as well as for producing energy from tides, winds and currents;

(b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the zone or for the convenience of shipping or for any other purpose;

(c) exclusive jurisdiction to authorise, regulate and control scientific research;

(d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution; and

(e) such other rights as are recognised by International law.

(5) No person (including a foreign Government) shall, except under, and in accordance with, the terms of any agreement with the Central Government or of a licence or a letter of authority granted by the Central Government, explore or exploit any resources of the exclusive economic zone or carry out any search or excavation or conduct any research within the exclusive economic zone or drill therein or construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device therein for any purpose whatsoever:

Provided that nothing in this sub-section shall apply in relation to fishing by a citizen of India.

(6) The Central Government may, by notification in the Official Gazette,—

(a) declare any area of the exclusive economic zone to be a designated area; and

(b) make such provisions as it may deem necessary with respect to,—

(i) the exploration, exploitation and protection of the resources of such designated area; or

(ii) other activities for the economic exploitation and exploration of such designated area such as the production of energy from tides, winds and currents; or

(iii) the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in such designated area; or

(iv) the protection of marine environment of such designated area; or

(v) customs and other fiscal matters in relation to such designated area.

Explanation.—A notification issued under this sub-section may provide for the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sealanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of India.

(7) The Central Government may, by notification in the official Gazette,—

(a) extend, with such restrictions and modifications as it thinks fit, any enactment for the time being in force in India or any part thereof to the exclusive economic zone or any part thereof; and

(b) make such provisions as it may consider necessary for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the exclusive economic zone or the part thereof to which it has been extended is a part of the territory of India.

(8) The provisions of sub-section (7) of section 6 shall apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the exclusive economic zone as they apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the continental shelf.

(9) In the exclusive economic zone and the air space over the zone, ships and aircraft of all States shall, subject to the exercise by India of its rights within the zone, enjoy freedom of navigation and overflight.

Historic waters.

8. (1) The Central Government may, by notification in the Official Gazette, specify the limits of such waters adjacent to its land territory as are the historic waters of India.

(2) The sovereignty of India extends, and has always extended, to the historic waters of India and to the seabed and subsoil underlying, and the air space over, such waters.

Maritime boundaries between India and States having coasts opposite or adjacent to those of India.

9. (1) The maritime boundaries between India and any State whose coast is opposite or adjacent to that of India in regard to their respective territorial waters, contiguous zones, continental shelves, exclusive economic zones and other maritime zones shall be as determined by agreement (whether entered into before or after the commencement of this section) between India and such State and pending such agreement between India and any such State, and unless any other provisional arrangements are agreed to between them, the maritime boundaries between India and such State shall not extend beyond the line every point of which is equidistant from the nearest point from which the breadth of the territorial waters of India and of such State are measured.

(2) Every agreement referred to in sub-section (1) shall, as soon as may be after it is entered into, be published in the Official Gazette.

(3) The provisions of sub-section (1) shall have effect notwithstanding anything contained in any other provision of this Act.

10. The Central Government may cause the baseline referred to in sub-section (2) of section 3, the limits of the territorial waters, the contiguous zone, the continental shelf, the exclusive economic zone and the historic waters of India and the maritime boundaries as settled by agreements referred to in section 9 to be published in charts.

Publica-
tion of
charts.

11. Whoever contravenes any provision of this Act or of any notification thereunder shall (without prejudice to any other action which may be taken against such person under any other provision of this or of any other enactment) be punishable with imprisonment which may extend to three years, or with fine, or with both.

Offences.

12. (1) Where an offence under this Act or the rules made thereunder has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act or the rules made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or the connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

13. Any person committing an offence under this Act or any rules made thereunder or under any of the enactments extended under this Act or under the rules made thereunder may be tried for the offence in any place in which he may be found or in such other place as the Central Government may, by general or special order, published in the Official Gazette, direct in this behalf.

Place
of trial.

14. No prosecution shall be instituted against any person in respect of any offence under this Act or the rules made thereunder without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf.

Previous
sanction
of the
Central
Govern-
ment for
prosecu-
tion.

Power
to make
rules.

15. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) regulation of the conduct of any person in the territorial waters, the contiguous zone, the continental shelf, the exclusive economic zone or any other maritime zone of India;

(b) regulation of the exploration and exploitation, conservation and management of the resources of the continental shelf;

(c) regulation of the exploration, exploitation, conservation and management of the resources of the exclusive economic zone;

(d) regulation of the construction, maintenance and operation of artificial islands, off-shore terminals, installations and other structures and devices referred to in sections 6 and 7;

(e) preservation and protection of the marine environment and prevention and control of marine pollution for the purposes of this Act;

(f) authorisation, regulation and control of the conduct of scientific research for the purposes of this Act;

(g) fees in relation to licences and letters of authority referred to in sub-section (4) of section 6 and sub-section (5) of section 7 or for any other purpose; or

(h) any matter incidental to any of the matters specified in clauses (a) to (g).

(3) In making any rule under this section, the Central Government may provide that a contravention thereof shall be punishable with imprisonment which may extend to three years, or with fine which may extend to any amount, or with both.

(4) Every rule made under this Act and every notification issued under sub-section (5) of section 6 or sub-section (6) of section 7 shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or the notification or both Houses agree that the rule or notification should not be issued, the rule or notification shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Removal
of diffi-
culties.

16. (1) If any difficulty arises in giving effect to the provisions of this Act or of any of the enactments extended under this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or, as the case may be, such enactment, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section--

(a) in the case of any difficulty arising in giving effect to any provision of this Act, after the expiry of three years from the commencement of such provision;

(b) in the case of any difficulty arising in giving effect to the provisions of any enactment extended under this Act, after the expiry of three years from the extension of such enactment.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Bill is a sequel to the latest Constitution Amendment Bill relating to the substitution of article 297 by a new article. According to new article 297, all lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone, as well as all other resources of the exclusive economic zone, vest in the Union to be held for the purposes of the Union. The new article also provides that the limits of the territorial waters, the continental shelf, the exclusive economic zone and other maritime zones of India shall be such as may be specified, from time to time, by or under any law made by Parliament.

2. At present, India does not have a comprehensive legislation on the Law of the Sea. The limits of the territorial waters and the continental shelf are governed by the Proclamations issued by the President. As envisaged by new article 297, it is intended to provide for the limits of the territorial waters, the continental shelf, the exclusive economic zone and other maritime zones of India by a Parliamentary law. For safeguarding the interests of the nation, it is also necessary to provide for a general legal framework specifying the nature, scope and extent of India's rights, jurisdiction and control in relation to the various maritime zones, the maritime boundaries between India and other States whose coasts are opposite or adjacent to those of India, and for the exploration, exploitation and protection of the resources of our continental shelf and exclusive economic zone. Hence this Bill.

3. The maritime zones of India include the territorial waters, the contiguous zone, the continental shelf, the exclusive economic zone and the historic waters of India. The territorial waters and the continental shelf are traditional concepts in International Law and the national jurisdiction in these zones is well established. The concept of the exclusive economic zone which has been developed at the initiative of developing countries has gained acceptance of the international community of States. The concept of contiguous zone which is located within the exclusive economic zone and over which additional jurisdiction is claimed by coastal States has also been accepted by the international community of States. Provision has also been made in the Bill regarding the historic waters of India which are adjacent to its land territory and over which India has sovereignty. The limits of these waters, such as the waters in the Palk Bay and the Gulf of Manaar, will be specified by the Central Government by notification in the Official Gazette. The limits of other maritime zones of India have been specified in the Bill itself. The Bill empowers the Central Government to alter, by notification in the Official Gazette, the limits of these maritime zones. It has been made clear that notifications for altering the limits as specified in the Bill shall not be issued unless both Houses of Parliament have passed resolutions approving the issue of such notifications.

4. It is proposed to undertake separate legislation in future as and when need arises for dealing in greater detail with the regulation, exploration and exploitation of particular resources or particular groups of resources of the continental shelf and the exclusive economic zone as well as with other matters in which India has jurisdiction in the maritime zones, and with regard to these matters the Bill makes only broad general provisions.

NEW DELHI;
The 25th May, 1976.

Y. B. CHAVAN.

FINANCIAL MEMORANDUM

The Bill provides for the limits of India's maritime zones and for the nature, scope and extent of India's rights, jurisdiction and control in relation to the various maritime zones. The Bill also makes provisions for the regulation, exploration and exploitation of the resources of the continental shelf and the exclusive economic zone of India.

2. Sub-clause (4) of clause 5 of the Bill relating to the contiguous zone of India empowers the Central Government to exercise such powers and take such measures in or in relation to the contiguous zone as it may consider necessary with respect to security of India, and immigration, sanitation, customs and other fiscal matters.

3. Sub-clause (5) of clause 6 of the Bill relating to the continental shelf provides for the declaration of any area of the continental shelf and its superjacent waters to be a designated area and for the making of such provisions with respect to the exploration, exploitation and protection of the resources of the continental shelf within such designated area and other matters mentioned in the sub-clause, as may be deemed necessary by the Central Government. Sub-clause (6) of clause 7 of the Bill relating to the exclusive economic zone also makes similar provisions with regard to designation of areas in the exclusive economic zone and for the making of such provisions as the Central Government may deem necessary with respect to the exploitation, exploration and protection of such designated area and other matters mentioned in the sub-clause.

4. Clause 15 of the Bill provides for the making of rules, *inter alia*, with regard to the regulation and conduct of persons in any maritime zone of India, regulation of the exploration, exploitation, conservation and management of the resources of the continental shelf and the exclusive economic zone, the preservation and protection of the marine environment and the prevention and control of marine pollution, and the authorisation, regulation and control of the conduct of scientific research.

5. While the various measures which may be taken in pursuance of the aforementioned provisions of the Bill, when enacted and brought into operation, will involve expenditure, both of a recurring and non-recurring nature, from the Consolidated Fund of India, at the present stage it is not possible to indicate with any degree of accuracy the quantum of such expenditure. A carefully planned programme will have to be evolved with regard to the various maritime zones for the exploration and exploitation of their resources, and the priorities with regard to different matters will have to be fixed. Bearing these programmes and priorities in mind, and having regard to the available finances, the expenditure to be incurred will have to be determined. Any expenditure whether of a recurring or non-recurring nature, which may

have to be incurred, will be met from out of the grants to the different Ministries and after due appropriation made by Parliament by law. It may also be mentioned in this connection that the intention is to undertake separate legislation in future for dealing in greater detail with the regulation, exploration and exploitation of particular resources or particular groups of resources of the continental shelf and exclusive economic zone, and the Bill, as stated in the Statement of Objects and Reasons, is intended to provide only the broad general legal framework.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (5) of clause 5 of the Bill seeks to empower the Central Government to extend any enactment relating to the security of India, immigration, sanitation, customs and other fiscal matters for the time being in force in India or any part thereof to the contiguous zone. Sub-clause (6) of clause 6 of the Bill seeks to empower the Central Government to extend, by notification in the Official Gazette, any enactment for the time being in force in India or any part thereof to the continental shelf or any part thereof. Sub-clause (7) of clause 7 of the Bill makes a similar provision in respect of extension of enactments to the exclusive economic zone or any part thereof.

Sub-clause (5) of clause 6 of the Bill seeks to empower the Central Government to declare, by notification in the Official Gazette, any area of the continental shelf and the superjacent waters to be a designated area and to make such provisions as it may deem necessary in such notification with respect to the exploration, exploitation and protection of the resources of the continental shelf within such designated area, the safety and protection of artificial islands and other structures and devices in such designated area, the protection of marine environment of such designated area and customs and other fiscal matters in relation to such designated area. Sub-clause (6) of clause 7 of the Bill makes similar provisions in respect of the exclusive economic zone.

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of this legislation. These relate, *inter alia*, to the regulation of the conduct of any person in the territorial waters, contiguous zone, continental shelf, exclusive economic zone or any other maritime zone, the exploration and exploitation, conservation and management of the resources of the continental shelf and of the exclusive economic zone, the construction, maintenance and operation of artificial islands, off-shore terminals, installations and other structures and devices in the continental shelf and exclusive economic zone, preservation and protection of the marine environment and prevention and control of marine pollution, conduct of scientific research, fees for various purposes, etc. Sub-clause (3) of the clause provides that in making any rule, the Central Government may provide that a contravention thereof shall be punishable with imprisonment which may extend to three years, or with fine which may extend to any amount, or with both.

The nature, scope and extent of India's rights, jurisdiction and control in relation to the various maritime zones have been set out in the Bill itself. The rules and other provisions will be confined to specific measures for the regulation and conduct of persons in various zones, technical matters, matters of procedure and other matters of administrative detail. In the present stage of the scientific, technological and other developments, it is not practicable to visualise the various enactments which have to be extended to these zones and the specific measures which will have to be taken for the protection of the nation's interests in these zones and for the proper exploration and exploitation of the resources of the various zones to the best advantage of the nation. Having regard to the

immense value of the resources of the zones, it is necessary to provide for effective sanctions against persons acting contrary to the national interests. Further, the rules and the notifications under clauses 6(5) and 7(6), when made or issued, will be laid before both Houses of Parliament. In the circumstances, the delegation of legislative power is of a normal character.

BILL No. XXIX OF 1976

A Bill further to amend the Factories Act, 1948.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Factories (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2

2. In section 2 of the Factories Act, 1948 (hereinafter referred to as the principal Act),—

63 of 1948.

(1) in clause (k),—

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) pumping oil, water, sewage or any other substance; or”;

(b) in sub-clause (iv) and sub-clause (v) the word “or” shall be inserted at the end;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) preserving or storing any article in cold storage;”;

(2) in clause (l),—

(a) for the words “employed, directly or through any agency, whether for wages or not”, the words and brackets “employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not” shall be substituted;

(b) the following words shall be inserted at the end, namely:—

“but does not include any member of the armed forces of the Union”;

(3) in clause (m),—

(a) in the concluding paragraph, for the words “a railway running shed”, the words “a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place” shall be substituted;

(b) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For computing the number of workers for the purposes of this clause all the workers in different relays in a day shall be taken into account;”;

(4) in clause (n), the following proviso shall be inserted at the end, namely:—

“Provided that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,—

(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under—

(a) section 6, section 7, section 11 or section 12;

(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or

section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to—

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person;”.

Amend-
ment of
section 5.

3. In section 5 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

‘Explanation.—For the purposes of this section “public emergency” means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.’.

Amend-
ment of
section 6.

4. In section 6 of the principal Act,—

(a) clause (a) of sub-section (1) shall be re-lettered as clause (aa), and before the clause as so re-lettered, the following clause shall be inserted, namely:—

“(a) requiring, for the purposes of this Act, the submission of plans of any class or description of factories to the Chief Inspector or the State Government;”;

(b) in sub-section (2), for the word, brackets and letter “clause (a)”, the word, brackets and letters “clause (aa)” shall be substituted;

(c) in the *Explanation*, the words “if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health” shall be inserted at the end.

Amend-
ment of
section 7.

5. In section 7 of the principal Act, in sub-section (1), for clause (e), the following clause shall be substituted, namely:—

“(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;”.

Amend-
ment of
section 8.

6. In section 8 of the principal Act,—

(a) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) The State Government may, by notification in the Official Gazette, appoint as many Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors and as many other officers as it thinks fit to assist the Chief Inspector and to exercise such of the powers of the Chief Inspector as may be specified in such notification.

(2B) Every Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector and every other officer appointed under

sub-section (2A) shall, in addition to the powers of a Chief Inspector specified in the notification by which he is appointed; exercise the powers of an Inspector throughout the State.”;

(b) in sub-section (3), after the word, brackets and figure “sub-section (2)”, the word, brackets, figure and letter, “, sub-section (2A)” shall be inserted;

(c) in sub-section (7), for the words “Every Chief Inspector and Inspector”, the words “Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed under this section” shall be substituted.

7. In section 10 of the principal Act, in sub-section (3), the following proviso shall be inserted at the end, namely:—

Amend-
ment of
section 10.

“Provided that the State Government may, by order in writing and subject to such conditions as may be specified in the order, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.”.

8. In section 11 of the principal Act,—

Amend-
ment of
section 11.

(1) in sub-section (1), in clause (d),—

(a) in sub-clause (i), for the word “painted”, the words “painted otherwise than with washable water-paint” shall be substituted;

(b) after sub-clause (i), the following sub-clause shall be inserted, namely:—

“(ia) where they are painted with washable water paint, be repainted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;”;

(c) after clause (d), the following clause shall be inserted, namely:—

“(dd) all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years;”;

(2) in sub-section (2),—

(a) for the words “in a factory”, the words “in a factory or class or description of factories or any part of a factory or class or description of factories” shall be substituted;

(b) after the words “description of factories”, the words “or part ” shall be inserted.

9. In section 12 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 12.

“(1) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.”.

Amend-
ment of
section 21.

10. In section 21 of the principal Act, in sub-section (1),—

(a) in the concluding paragraph, for the words “shall be kept in position”, the words “shall be constantly maintained and kept in position” shall be substituted;

(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when—

(i) it is necessary to make an examination of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion, or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery), it is necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts or lubrication or other adjusting operation while the machinery is in motion,

and such examination or operation is made or carried out in accordance with the provisions of sub-section (1) of section 22.”.

Amend-
ment of
section 22.

11. In section 22 of the principal Act, in sub-section (1), for the opening paragraph and clause (a), the following shall be substituted, namely:—

“Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out—

(a) in a case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation,

while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting cloth (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf

and who has been furnished with a certificate of his appointment, and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless—

(i) the belt is not more than fifteen centimetres in width;

(ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);

(iii) the belt joint is either laced or flush with the belt;

(iv) the belt, including the joint and the pulley rim, are in good repair;

(v) there is reasonable clearance between the pulley and any fixed plant or structure;

(vi) secure foothold, and, where necessary secure handhold, are provided for the operator; and

(vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person.”.

12. In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 24.

“(3) When a device, which can inadvertently shift from “off” to “on” position, is provided in a factory to cut off power arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted.”.

13. In section 31 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 31.

“(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.”.

14. In section 32 of the principal Act,—

Amend-
ment of
section 32.

(1) in clause (a), after the words “properly maintained”, the words “and shall be kept free from obstructions and substances likely to cause persons to slip” shall be inserted;

(2) after clause (b), the following clause shall be inserted, namely:—

“(c) when any person has to work at a place from where he is likely to fall a distance exceeding two metres, then, unless the place is one which provides secure foothold and where necessary, secure handhold, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.”.

Amend-
ment of
section 36.

15. In section 36 of the principal Act, sub-section (2) shall be omitted.

Insertion
of new
section
36A.

16. After section 36 of the principal Act, the following section shall be inserted, namely:—

“36A. In any factory—

(a) no portable electric light or any other electric appliance of voltage exceeding twenty-four volts shall be permitted for use inside any chamber, tank, vat, pit, pipe, flue or other confined space; and

(b) if any inflammable gas, fume or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, no lamp or light other than that of flame-proof construction shall be permitted to be used therein.”.

Precau-
tions
regarding
the use
of port-
able
electric
light.

Amend-
ment of
section
38.

17. In section 38 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) In every factory there shall be provided such means of escape in case of fire as may be prescribed.”;

(ii) after sub-section (7), the following sub-sections shall be inserted, namely:—

“(8) Notwithstanding anything contained in sub-section (1) or sub-section (7), if the Inspector, having regard to the nature of the work carried on in the factory, construction of the factory, special risk to life or safety or any other circumstance, is of the opinion that though such means of escape as may be prescribed has been provided in the factory, the same is not adequate to permit safe, easy or quick exit of the workers in case of fire, he may, by order in writing, require that such additional means of escape or other measures as he may consider reasonable and necessary be provided in the factory before such date as is specified in the order.

(9) If any question arises whether or not the means of escape provided in the factory is adequate to permit safe, easy or quick exit of the workers in case of fire, the same shall be referred to the Chief Inspector, who shall, after giving the persons concerned a reasonable opportunity to represent their views, decide the same.

(10) Any person aggrieved by the decision of the Chief Inspector under sub-section (9) may, before the expiry of thirty days from the date on which the decision is communicated to him, prefer an appeal to the State Government and the State Government shall after giving the appellant a reasonable opportunity to represent his views, make such order in relation to the appeal as it thinks fit.”.

Amend-
ment of
sections
39 and 40.

18. In section 39 and section 40 of the principal Act, for the words “the manager”, wherever they occur, the words “the occupier or manager or both” shall be substituted.

19. After section 40 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
40A and
40B.

Mainten-
ance of
buildings.

"40A. If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

"40B. (1) In every factory,—

(i) wherein one thousand or more workers are ordinarily employed, or

Safety
Officers.

(ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory,

the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government."

20. In section 41 of the principal Act, for the word "devices", the words "devices and measures" shall be substituted.

Amend-
ment of
section 41.

21. In section 45 of the principal Act,—

Amend-
ment of
section 45.

(a) in sub-section (3), for the words "who is trained in first-aid treatment", the words "who holds a certificate in first-aid treatment recognised by the State Government" shall be substituted;

(b) in sub-section (4),—

(i) for the word "employed", the words "ordinarily employed" shall be substituted;

(ii) the words "and those facilities shall always be made readily available during the working hours of the factory" shall be inserted at the end.

22. In section 46 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

Amend-
ment of
section 46.

"(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer."

23. In section 48 of the principal Act, in sub-section (1), for the words "fifty women workers", the words "thirty women workers" shall be substituted.

Amend-
ment of
section 48.

Amend-
ment of
section 56.

24. In section 56 of the principal Act, in the proviso, for the words "spread over to twelve hours", the words "spread over up to twelve hours" shall be substituted.

Amend-
ment of
section 59.

25. In section 59 of the principal Act, for sub-section (2) and sub-section (3), the following sub-sections shall be substituted, namely:—

"(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers:

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earnings of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation.—For the purposes of this sub-section, in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus, or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded."

Amend-
ment of
section 62.

26. In section 62 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers."

Amend-
ment of
section 64.

27. In section 64 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "confidential position in a factory", the words "or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed" shall be inserted;

(ii) the words "or declared" shall be inserted at the end;

(iii) the following proviso shall be inserted at the end, namely:—

“Provided that any person so defined or declared shall, where the ordinary rate of wages of such person does not exceed rupees seven hundred and fifty per month, be entitled to extra wages in respect of overtime work under section 59.”;

(b) in sub-section (2),—

(i) in clause (e) and clause (h), for the word and figures “section 52”, the words and figures “section 51 and section 52” shall be substituted;

(ii) in clause (f), for the word and figures “section 52”, the words and figures “section 51, section 52 and section 54” shall be substituted;

(iii) in clause (j), after the words “railway wagons”, the words “or lorries or trucks” shall be inserted;

(iv) after clause (j), the following clause shall be inserted, namely:—

“(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.”;

(c) in sub-section (4), clause (iii) shall be re-numbered as clause (iv) and before clause (iv) as so re-numbered, the following clause shall be inserted, namely:—

“(iii) the total number of hours of work in a week, including overtime, shall not exceed sixty.”;

(d) in sub-section (5), for the words “three years”, the words “five years” shall be substituted.

28. In section 65 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 65.

“(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:—

(i) the total number of hours of work in any day shall not exceed twelve;

(ii) the spread over, inclusive of intervals for rest shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation.—In this sub-section “quarter” has the same meaning as in sub-section (4) of section 64.”;

(b) sub-section (4) shall be omitted.

Amend-
ment of
section 66.

29. In section 66 of the principal Act, in sub-section (1), in clause (b),—

(i) in the opening paragraph, for the words “employed in any factory”, the words “required or allowed to work in any factory” shall be substituted;

(ii) in the proviso, for the words “any class or description of factories”, the words “any factory or group or class or description of factories” shall be substituted.

Amend-
ment of
section 73.

30. In section 73 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) No child worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of child workers.”.

Amend-
ment of
section 78.

31. In section 78 of the principal Act,—

(a) in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that if such award, agreement or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favourably therein, the provisions of sections 79 to 82, so far as may be, shall apply.”;

(b) in sub-section (2), for the words “in any workshop”, the words “in any factory” shall be substituted.

Amend-
ment of
section 79.

32. In section 79 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1), even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made—

(i) where the worker is discharged or dismissed or quits employment, before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.”;

(b) in sub-section (5), in the second proviso,—

(i) after the words, brackets and figures “in sub-sections (8) and (9)” the words, brackets and figures, “or in contravention of sub-section (10)” shall be inserted;

(ii) for the words “unavailed leave”, the words “leave refused” shall be substituted.

33. In section 80 of the principal Act, in sub-section (1),—

(i) for the word and figures “section 79”, the words and figures “section 78 or section 79, as the case may be” shall be substituted;

(ii) for the words “he worked”, the words “he actually worked” shall be substituted.

Amend-
ment of
section 80.

34. In section 84 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than these for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.”.

Amend-
ment of
section 84.

35. In section 86 of the principal Act, in the opening paragraph, for the word “training”, the words “training, research” shall be substituted.

Amend-
ment of
section 86.

36. In section 87 of the principal Act,—

(a) for the word “operation”, wherever it occurs, the words “manufacturing process or operation” shall be substituted;

Amend-
ment of
section 87.

(b) in clause (c), the following words shall be inserted at the end, namely:—

“and requiring the payment by the occupier of the factory of fees for such medical examination”;

(c) after clause (e), the following clauses shall be inserted, namely:—

“(f) requiring the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation;

(g) providing for issue of orders in writing by the Inspector or the Chief Inspector to the manager or occupier or both of the factory directing them to carry out such measures, and within such time, as may be specified in such order with a view to removing conditions dangerous to the health of the workers, or to suspend any process, where such process constitutes, in the opinion of the Inspector or the Chief Inspector, as the case may be, imminent danger of poisoning or toxicity.”.

37. Section 88 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

Amend-
ment of
section 88.

“(2) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall

make an inquiry into the occurrence within one month of the receipt of the notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.

(3) The State Government may make rules for regulating the procedure at inquiries under this section.”.

38. After section 88 of the principal Act, the following section shall be inserted, namely:—

“88A. Where in a factory any dangerous occurrence of such nature as may be prescribed occurs, whether causing any bodily injury or disability or not, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.”.

39. In Chapter IX of the principal Act, after section 91, the following section shall be inserted, namely:—

“91A. (1) The Chief Inspector, or the Director General of Factory Advice Service and Labour Institutes, or the Director General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes or the Director General of Health Services may, at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in charge of the factory, undertake safety and occupational health surveys and such occupier or manager or other person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the factory.”.

40. In section 92 of the principal Act,—

(a) for the words “five hundred rupees”, the words “two thousand rupees” shall be substituted;

(b) the following proviso and *Explanation* shall be inserted at the end, namely:—

‘Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one thousand rupees in the case of an accident causing death, and five hundred rupees in the case of an accident causing serious bodily injury.

Insertion
of new
section
88A.

Notice of
certain
danger-
ous occur-
rences.

Insertion
of new
section
91A.

Safety
and occu-
pational
health
surveys.

Amend-
ment of
section
92.

Explanation.—In this section and in section 94 “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.’

41: Section 94 of the principal Act shall be re-numbered as sub-section (1) thereof and in sub-section (1) as so re-numbered,—

Amend-
ment of
section 94.

(a) in the opening paragraph, for the words “which may extend to one thousand rupees”, the words “which shall not be less than two hundred rupees but which may extend to five thousand rupees” shall be substituted;

(b) for the proviso, the following provisos shall be substituted, namely:—

“Provided that the court may, for any adequate and special reasons to be mentioned in the judgment impose a fine of less than two hundred rupees:

Provided further that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than two thousand rupees in the case of an accident causing death and one thousand rupees in the case of an accident causing serious bodily injury.”;

(c) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) For the purposes of sub-section (1), no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted.”.

42. In section 100 of the principal Act, in sub-section (2),—

Amend-
ment of
section
100.

(a) in the opening paragraph, the words “, or in the case of a private company, any one of the shareholders thereof,” shall be omitted;

(b) in the proviso,—

(i) for the words “a director, or in the case of a private company, a shareholder, who is resident in either case within India”, the words “a director, who is resident within India” shall be substituted;

(ii) for the words “such director or shareholder, as the case may be,”, the words “such director” shall be substituted;

(iii) for the words “ceases to be a director or shareholder”, the words “ceases to be a director” shall be substituted;

(c) the following proviso shall be inserted at the end, namely:—

“Provided further that in the case of a factory belonging to the Central Government or any State Government or any

local authority the person or persons appointed to manage the affairs of the factory shall be deemed to be the occupier of that factory for the purposes of this Chapter.”.

Amend-
ment of
section
106.

43. In section 106 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this section—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.”.

Insertion
of new
section
119.

44. After section 118 of the principal Act, the following section shall be inserted, namely:—

“119. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Contract Labour (Regulation and Abolition) Act, 1970.”.

Act to
have
effect
notwith-
standing
any-
thing
contain-
ed in
Act 37
of 1970.

Amend-
ment of
the
Sche-
dule.

45. In the Schedule to the principal Act, the following serial numbers and entries shall be inserted at the end, namely:—

“18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.

19. Byssionosis.

20. Asbestosis.

21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.

22. Noise induced hearing loss (exposure to high noise levels).”.

STATEMENT OF OBJECTS AND REASONS

The main object of the Factories Act, 1948 is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. Government are, therefore, initiating various measures from time to time to ensure that adequate standards of safety, health and welfare are achieved at all work places. In particular, in the context of the need to secure maximum production and productivity, an appropriate work culture conducive to safety, health and happiness of workers has to be evolved in the factories.

2. To achieve these objectives more effectively it has become necessary to amend the Factories Act. The amendments proposed to be made in the Act by the Bill mainly relate to (1) the modification of the definition of the term 'worker' so as to include within its meaning contract labour employed in any manufacturing process, (2) improvement of the provisions in regard to safety and appointment of Safety Officers, (3) reduction of the minimum number of women employees, for the purpose of providing creches by employers, from fifty to thirty and (4) provisions for inquiry in every case of a fatal accident.

NEW DELHI;

K. V. RAGHUNATHA REDDY.

The 24th May, 1976,

FINANCIAL MEMORANDUM

As the Factories Act, 1948, is administered by the State Governments, no additional expenditure, for the purpose of the administration of the Act, will have to be incurred from the Consolidated Fund of India as a result of the amendments proposed to be made in that Act by the Bill. In respect of the Union territories also, the existing inspecting staff would be able to carry on inspection and enforcement of the Act as proposed to be amended and no additional expenditure would be involved from the Consolidated Fund of India on that account.

2. Clause 19 of the Bill seeks to insert section 40B in the principal Act to provide for the appointment of Safety Officers and clause 23 of the Bill seeks to amend sub-section (1) of section 48 of the principal Act to reduce the minimum number of women workers for the purpose of providing creches by employers from fifty to thirty. These amendments, if enacted and brought into force, would involve additional expenditure from the Consolidated Fund of India in respect of undertakings run by the Central Government departmentally. Of these undertakings many of the large establishments have already appointed Safety Officers even though there is no statutory provision. In regard to establishments where Safety Officers will have to be appointed under the new section 40B, the approximate recurring expenditure will be rupees twenty thousand per annum for each establishment.

3. As regards the provision of creches, establishments employing more than fifty women workers are already required to provide creches under section 48 as it exists now. As a result of the amendment sought to be made in that section by clause 23 of the Bill, establishments employing more than thirty women workers will have to provide creches. Some of the establishments which are not at present required to provide creches will have to provide them if amendment to section 48 is enacted and brought into force. The approximate non-recurring expenditure for the provision of a creche in such an establishment will be rupees forty thousand and the recurring expenditure will be rupees twenty thousand per annum.

4. As information regarding the number of undertakings run departmentally by the Central Government where Safety Officers will have to be appointed or creches will have to be provided, if clauses 19 and 23 of the Bill are enacted and brought into force, is not readily available, total additional expenditure from the Consolidated Fund of India on these accounts cannot be estimated. Since expenditure in respect of appointment of Safety Officers and provision of creches is normal expenditure in relation to the establishment, the undertakings run departmentally by the Central Government are expected to meet the additional expenditure from their budgets.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to amend section 21 of the Factories Act, 1948. Clause (ii) of the proviso, sought to be substituted in sub-section (1) of that section, empowers the State Government to prescribe by rules the processes of a continuous nature for the purposes of that clause.

2. Clause 11 of the Bill seeks to amend sub-section (1) of section 22 and that sub-section empowers the State Government to prescribe the registers wherein the names of the specially trained adult workers undertaking certain operations, while any part of a machinery is in motion, are to be recorded.

3. Clause 13 of the Bill seeks to insert sub-section (3) in section 31 of the Act. This sub-section empowers the State Government to exempt by rules, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) of section 31 from the provisions of that section.

4. Clause 17 of the Bill seeks to amend section 38 of the Act. Sub-section (1) of that section as sought to be substituted by the clause empowers the State Government to make rules regarding the provision of means of escape in case of fire.

5. Clause 19 of the Bill seeks to insert new sections 40A and 40B in the Act. Sub-section (2) of section 40B empowers the State Government to make rules regarding the duties, qualifications and conditions of service of Safety Officers.

6. Clause 37 of the Bill seeks to insert sub-sections (2) and (3) in section 88. Sub-section (3) empowers the State Government to make rules for regulating the procedure at inquiries into accidents under the section.

7. Clause 38 of the Bill seeks to insert a new section 88A in the Act. The section empowers the State Government to prescribe the nature of dangerous occurrences for the purposes of that section.

8. All the above matters, in respect of which rules are empowered to be made, are matters of detail or procedure and as such the delegation of legislative power involved is of a normal character.

S. S. BHALERAO,
Secretary-General.

